

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHYLLIS A. HENDERSON, STEVEN G.
SCHON and CARL POSTUMA

Appeal No. 94-3579
Application 07/676,143¹

ON BRIEF

MAILED

APR 16 1996

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before TURNER, ELLIS and OWENS, Administrative Patent Judges.

TURNER, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the Examiner's decision finally rejecting claims 1-12 which are all of the claims in the application. Illustrative claim 1 is reproduced below.

¹ Application for patent filed March 27, 1991.

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1. A process of preparing purified C₁-C₈ alkanesulfonic acid from crude aqueous C₁-C₈ alkanesulfonic acid containing oxidizable impurities, said process comprising treating said crude aqueous alkanesulfonic acid with chlorine in an amount effective to convert oxidizable impurities to the corresponding alkanesulfonyl chloride, and hydrolyzing said alkanesulfonyl chloride to alkanesulfonic acid.

The references of record relied upon by the Examiner are:

Gongora et al. (Gongora)	4,699,736	Oct. 13, 1987
Ollivier et al. (Ollivier)	4,859,373	Aug. 22, 1989
Nosowitz	4,895,977	Jan. 23, 1990

The appealed claims stand rejected under 35 U.S.C. § 103 as unpatentable over Nosowitz in view of Gongora and Ollivier.

The subject matter on appeal is directed to a process for preparing purified alkanesulfonic acid from crude aqueous alkanesulfonic acid containing oxidizable impurities, comprising treating the crude alkanesulfonic acid with chlorine to convert the oxidizable impurities to the corresponding alkanesulfonyl chloride, and hydrolyzing the alkanesulfonyl chloride to alkanesulfonic acid. A more detailed description can be gleaned from a reading of the claims.

OPINION

Rather than reiterate the conflicting viewpoints advanced by Appellants and the Examiner in support of their respective positions, reference is made to the Brief and Answer for the full exposition thereof. Our review of the conflicting viewpoints leads us to conclude that the Examiner's position is not well founded. Accordingly, we will not sustain the rejection. Our reasons follow.

We find ourselves in agreement with the comments of Appellants as to the propriety of the rejection. The primary Nosowitz reference teaches a method for the purification of alkanesulfonic acids but, according to the reference at column 2, lines 35-40, this is done by removing oxidizable organic impurities with an ozone-containing gas. The secondary Gongora reference is relied upon for its teaching of a process for the production of alkane sulfonyl chlorides using starting materials which include some of the oxidizable impurities disclosed in Nosowitz. Ollivier teaches that hydrolysis of alkane sulfonyl chlorides yields alkanesulfonic acids. Based upon these disclosures, the Examiner concludes that the combined references establish a prima facie case of obviousness. We disagree. The claims here on appeal require the treatment of crude aqueous

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alkanesulfonic acid containing oxidizable impurities with chlorine to convert the oxidizable impurities to the corresponding sulfonyl chloride, and thereafter hydrolyzing the sulfonyl chloride to the alkanesulfonic acid. The primary reference employs ozone rather than chlorine and the process involves removing the oxidizable organic impurities rather than converting the impurities to a product which can be hydrolyzed to the alkanesulfonic acid. We do not see the relevance of Gongora or Ollivier since they do not disclose, teach or otherwise deal with the purification of alkanesulfonic acids by treating impurities in a crude alkane-sulfonic acid formulation. Gongora relates to the manufacture of alkane sulfonyl chlorides while Ollivier teaches that sulfonyl chlorides, upon hydrolysis, yield alkanesulfonic acids. We do not find the motivation to combine the teachings of the above identified prior art as suggested by the Examiner. In our opinion, the only suggestion for the Examiner's indiscriminate combination of the isolated teachings of the applied references improperly stems from Appellants' disclosure and not from the applied prior art. In re Kamm, 452 F.2d 1052, 172 USPQ 298 (CCPA 1972). Accordingly, we conclude that the Examiner's rejection fails for lack of a sufficient factual basis upon which to reach a conclusion of obviousness. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

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For the reasons set forth above, we reverse.

REVERSED

Vincent D. Turner
VINCENT D. TURNER)
Administrative Patent Judge)

Joan Ellis
JOAN ELLIS)
Administrative Patent Judge)

Terry J. Owens
TERRY J. OWENS)
Administrative Patent Judge)

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